

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

NED COMER, BRENDA COMER, ERIC	)	
HAYGOOD, BRENDA HAYGOOD, LARRY	)	
HUNTER, SANDRA L. HUNTER, MITCHELL	)	Case No.: 1:05-cv-00436-LG-RHW
KISIELEWSKI, JOHANNA KISIELEWSKI,	)	
ELLIOTT ROUMAIN, ROSEMARY ROUMAIN,	)	Judge Louis Guirola, Jr.
JUDY OLSON AND DAVID LAIN	)	
	)	
Plaintiffs,	)	Magistrate Judge Walker
vs.	)	
	)	
AES CORP., ALLEGHENY ENERGY INC.,	)	
ALLIANCE RESOURCE PARTNERS LP, ALPHA	)	
NATURAL RESOURCES INC., ARCH COAL, INC.,	)	
BP AMERICA PRODUCTION COMPANY, BP	)	
PRODUCTS NORTH AMERICA INC., CONSOL	)	
ENERGY INC., CHEVRON U.S.A. INC., CINERGY	)	
CORP., CONOCOPHILLIPS COMPANY, DUKE	)	
ENERGY CORP., E.ON AG, EI DUPONT DE	)	
NEMOURS & CO., ENTERGY CORP.,	)	
EXXONMOBIL CORPORATION, FPL GROUP INC.,	)	
FIRSTENERGY CORP., FOUNDATION COAL	)	
HOLDINGS, INC., HONEYWELL	)	
INTERNATIONAL, INC., INTERNATIONAL COAL	)	
GROUP, INC., MASSEY ENERGY CO., MURPHY	)	
OIL, U.S.A., NATURAL RESOURCE PARTNERS	)	
LP, PEABODY ENERGY CORP., RELIANT	)	
ENERGY INC., SHELL OIL COMPANY,	)	
TENNESSEE VALLEY AUTHORITY, THE	)	
AMERICAN PETROLEUM INSTITUTE, THE DOW	)	
CHEMICAL COMPANY, UNIVERSAL OIL	)	
PRODUCTS (UOP), WESTMORELAND COAL CO.,	)	
AND XCEL ENERGY INC.	)	
	)	
Defendants.	)	

**NOTICE OF APPEAL**

Notice is hereby given that NED COMER, BRENDA COMER, ERIC HAYGOOD, BRENDA HAYGOOD, LARRY HUNTER, SANDRA L. HUNTER, MITCHELL KISIELEWSKI, JOHANNA KISIELEWSKI, ELLIOTT ROUMAIN, ROSEMARY

ROUMAIN, JUDY OLSON and DAVID LAIN, Plaintiffs in the above-captioned matter hereby appeal to the United States Court of Appeals for the Fifth Circuit from this Court's 30 August 2007 Order granting the Motions to Dismiss filed by Defendants Alliance Resource Partners, L.P., Alpha Natural Resources, Inc., Arch Coal, Inc., CONSOL Energy Inc., Foundation Coal Holdings, Inc., International Coal Group, Inc., Massey Energy Company, Natural Resource Partners L.P., Peabody Energy Corporation, Westmoreland Coal Company, and joined by Defendants, Allegheny Energy Corp., Entergy Corp., and Reliant Energy Corp. (Rec. Doc. 368) as well as the Judgment dismissing Plaintiffs' claims with prejudice against Defendants AES Corp., Allegheny Energy Inc., Alliance Resource Partners LP, Alpha Natural Resources Inc., Arch Coal, Inc., BP America Production Company, BP Products North America Inc., CONSOL Energy Inc., Chevron U.S.A. Inc., Cinergy Corp., ConocoPhillips Company, Duke Energy Corp., E.ON AG, EI DuPont de Nemours & Co., Entergy Corp., ExxonMobil Corporation, FPL Group Inc., Firstenergy Corp., Foundation Coal Holdings, Inc., Honeywell International, Inc., International Coal Group, Inc., Massey Energy Co., Murphy Oil, U.S.A., Natural Resource Partners LP, Peabody Energy Corp., Reliant Energy Inc., Shell Oil Company, Tennessee Valley Authority, The American Petroleum Institute, The Dow Chemical Company, Universal Oil Products (UOP), Westmoreland Coal Co., and Xcel Energy Inc. (Rec. Doc. 369).

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that I have on this the 17th day of September, 2007, electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of this filing to the following:

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